

APPEAL NO. 041078  
FILED JUNE 15, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 20, 2004. The hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the first through third quarters.

The claimant appeals, contending that his doctors have explained why he is unable to work and that the report of the respondent's (carrier) required medical examination (RME) doctor "is conclusory." The claimant also contends that he has a "less than sedentary work ability" and that the RME doctor's report was after the qualifying periods. The carrier responds, urging affirmance.

DECISION

Affirmed.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). At issue in this case is whether the claimant met the SIBs criteria of making a good faith effort to obtain employment commensurate with his ability to work during the respective qualifying periods. See Section 408.142(a)(4) and Rule 130.102(b)(2). The claimant contends that he has met the criterion because he had a total inability to work. Rule 130.102(d)(4) provides that an injured employee has made a good faith effort to obtain employment commensurate with the employee's ability to work if the employee has been unable to perform any type of work in any capacity, has provided a narrative report from a doctor which specifically explains how the injury causes a total inability to work, and no other records show that the injured employee is able to return to work.

The claimant, a former air conditioning and heating technician, fell from a ladder and sustained a serious right wrist, right shoulder, and right elbow injury. The claimant has had two wrist surgeries and has post traumatic arthritis in his right wrist. The claimant contends the constant pain and heavy medication preclude any type of work. The hearing officer notes that the claimant's medication therapy is complicated by liver damage due to hepatitis C.

Most of the claimant's medical reports just say that he is not to work at this time or "[r]emains off work." The hearing officer summarizes the various reports. The treating doctor, in a report dated June 3, 2003, shortly after the third quarter qualifying period states, "Due to his injuries, [claimant] has been left unable to work due to his impairment and also the medications that he takes causes him drowsiness and further makes it impossible to retain regular employment." The hearing officer comments that that report does not specifically explain how the injury causes a total inability to work in any capacity. As another record, the report of the carrier's RME doctor, some months

after the last qualifying period, concludes that the claimant “should be able to do some work activities that would not involve much use of the right upper extremity, except as a helping hand” and gives restrictions on use of the right hand and wrist. The hearing officer comments that there was no evidence that the claimant’s condition had improved after the disputed qualifying periods, lists some of the activities that the claimant acknowledged he could do, and concludes that the claimant has not met the requirements of Rule 130.102(d)(4).

We have reviewed the complained-of determinations and conclude that the hearing officer’s decision is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer’s decision and order are affirmed.

The true corporate name of the insurance carrier is **CAMDEN FIRE INSURANCE ASSOCIATION** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEMS  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Edward Vilano  
Appeals Judge